

Town of Los Altos Hills

City Council Regular Meeting Minutes

September 24, 2009

Council Chambers, 26379 Fremont Road

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Warshawsky called the City Council Regular Meeting to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Dean Warshawsky, Mayor Pro Tem Breene Kerr, Councilmember Jean Mordo, Councilmember Rich Larsen and Councilmember Ginger Summit

Absent: None

Staff: City Manager Carl Cahill, City Engineer/Public Works Director Richard Chiu, Finance Director Nick Pegueros, Planning Director Debbie Pedro, Planning Consultant Cynthia Richardson, City Attorney Steve Mattas, and City Clerk Karen Jost

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION

(Pursuant to Government Code Section 54956.9(c).)

Initiation of Litigation: One Case

PUBLIC SESSION

City Attorney Steve Mattas reported that the Closed Session had not convened. The item had been removed from the agenda at the request of city staff.

APPOINTMENTS AND PRESENTATIONS

1. Presentation of Mayor's Earth Day Recognition Awards – Bullis Charter School and Covington Elementary School

Mayor Dean Warshawsky provided an overview of the Town's annual Earth Day event. Participating schools included Pinewood, Bullis Charter, Gardner Bullis, Almond, Oak, St. Nicholas and Mountain View High School. Students had performed cleanup activities at approximately 40 different sites in the Los Altos Hills/Los Altos communities including several of the Town's major pathways, Byrne Preserve, Westwind Barn and Edith Park. Mayor Warshawsky thanked all of the participants for their efforts.

Two of the schools were recognized as recipients of the “Mayor’s Award” for their extraordinary efforts. The Mayor’s Award for Innovation was presented to Covington Elementary School and the Mayor’s Award for Community Service was presented to Bullis Charter School. Mayor Warshawsky presented plaques to representatives from each school. The Mayor acknowledged that their achievements would be included on a perpetual award that will remain at Town Hall.

Chris Vargas, founding Chair of the annual event extended a thank you to all of the 600 students, parents and teachers that had participated in the Earth Day event and offered that he was looking forward to the continued evolution of the program that had been initiated in 2004 with two schools.

Council thanked Vargas and the participants for their service to the community.

2. Appointment to Standing Committees:

Finance and Investment Committee

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Larsen and passed unanimously to appoint Stan Mok to the Finance and Investment Committee for a term of four years.

History Committee

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Larsen and passed unanimously to appoint Barbara Packard to the History Committee for a term of four years.

CONSENT CALENDAR

Items Removed: Agenda Item #5 and Agenda Item #6 (Mordo)

MOTIONED SECONDED AND CARRIED: Moved by Larsen, seconded by Kerr and passed unanimously to approve the remaining items on the consent calendar; specifically:

3. Approval of Meeting Minutes: City Council Regular Meeting – September 10, 2009
4. Review of Disbursements: August 1, 2009-August 31, 2009 \$957,463.59
7. Rejection of Claim – Clifford and Dinatale

Items Removed:

5. Award of Contract for Preparation of Easement Documents for Vacating the Public Use Easement on Chaparral Way While Reserving a Separate Easement for Pathway Use (Staff: R. Chiu) Resolution No. 51-09

Councilmember Mordo requested clarification of this item. City Attorney Steve Mattas explained that the easement documents identified in the item accomplished the earlier direction provided to staff by the Council regarding Chaparral Way. The mechanism cited would retain the Town’s interest in the road that the Town deemed appropriate and vacate the rest.

MOTIONED SECONDED AND CARRIED: Moved by Mordo, seconded by Kerr and passed unanimously to approve Resolution No. 51-09 awarding a contract for the preparation of easement documents.

6. Approval of Renewal Agreements for Service Contracts (Staff: N. Pegueros)

Councilmember Mordo requested clarification on the agenda item. Finance Director Nick Pegueros reviewed the list of agreements/contracts authorized by the resolution. A majority of the contracts were renewals of previously approved service agreements with the exception of the contract for graphic design services and town hall landscape maintenance service.

MOTIONED SECONDED AND CARRIED: Moved by Mordo, seconded by Larsen and passed unanimously to approve Resolution No. 52-09

PRESENTATIONS FROM THE FLOOR

Kathy Evans, La Loma Drive, reported on the very successful Hoedown event at Westwind Barn. Council thanked her for all of the countless volunteer hours she had contributed towards the wonderful event.

PUBLIC HEARINGS

8. Consideration of Initiating Annexation Proceedings for the Territory Designated as the Unincorporated La Loma Drive Area, consisting of 13 parcels (12.79 acres) of residentially developed land bounded by the Town of Los Altos Hills to the west, north, and east, and to the south by unincorporated Santa Clara County. Potential Annexation Would Encompass 25263, 25265, 25225, 25245, 25255, 25303, 25295, 25299, 25285, 25275, and 25274 La Loma Drive. (Staff: D. Pedro)

Mayor Warshawsky introduced the item.

Planning Consultant Cynthia Richardson presented the staff report. No written concerns were received. Staff recommended that Council consider the request to adopt the resolution initiating the annexation proceedings for the Territory Designated as La Loma Drive No. 2 and set a date for a second public hearing no sooner than October 22, 2009, to finalize the annexation.

Planning Director Debbie Pedro explained that the County's setback regulations are different than the Town's. When the properties come in for future development, the nonconforming situations will be treated as legal nonconforming so they can remain until new structures are built. The Town would have County plans and records transferred after the annexation was finalized.

Councilmember Summit expressed concern about the private roads, pointing out that in the past when property was annexed, the Town asked that the roads be brought up to public standards.

Planning Director Pedro commented that when the properties submit individually for development projects, the road right of way would be looked at; and additional road right of way might need to be dedicated to meet the Town's minimum standards. In prior

instances where properties were annexed, the Town looked at the actual condition of the road (public), and the condition of the road needed to be brought up to standards.

OPENED PUBLIC HEARING

Dave Aurelio, La Loma Drive, objected to the annexation because of the current condition of the road and nonconformance.

Kathy Evans, La Loma Drive, commented on the dispute as to whether the road is private or public. Her property is the last house on the road in Town and the road up to her house was always maintained by the Town. Damage done to the road during the past 10 years had to do with new construction of a couple new houses that were built which are in the County. The Council was applauded for annexing the property.

CLOSED PUBLIC HEARING

Planning Director Pedro explained that, according to Santa Clara County, the portion of La Loma to be annexed was a private road.

Councilmember Mordo questioned how a fire truck would get to a property such as 25299 La Loma and whether it was the County's responsibility to fix the roads.

Planning Director Pedro explained that the situation could be existing and non-conforming, and staff would evaluate whether the panhandle, which was private property, would need to be upgraded.

City Manager Carl Cahill summarized the Council's direction to staff to look at the road issue prior to the final hearing and that a letter could be sent to the homeowners letting them know that the Town, in cooperation with the Fire Department, believes their properties might be at risk and recommend that they upgrade the road. He explained that the Town entered into an agreement with the County to rationalize the boundaries and to eliminate small pockets which were difficult for the County to manage and police. Private roads in Town were normally maintained by residents who have road committees to get the roads fixed. Eliminating the pockets has provided better control of the development and better safety for the Town.

In response to a question about emergency vehicle access, Captain Calderon explained that patrol cars have responded to a number of calls in the area.

MOTION SECONDED AND CARRIED: Moved by Summit, seconded by Kerr and passed unanimously to initiate the annexation proceedings for the Territory Designated as the Unincorporated La Loma Drive Area, consisting of 13 parcels as reflected in the resolution. Resolution No. 53-09

Councilmember Mordo asked for an investigation of the issue of vehicular access on the panhandle for the next hearing.

Planning Director Pedro responded that the issue would come back to the Council on October 22.

9. Consideration of Appropriations for Citizens' Option for Public Safety Fund (COPS) (Staff: N. Pegueros)

Finance Director Nick Pegueros recommended that the Council adopt the resolution approving appropriations for the Citizens' Option for Public Safety (COPS) Fund for fiscal year 2009-10.

OPENED PUBLIC HEARING

There were no comments from the public.

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Mordo and passed unanimously to approve the recommendation to adopt the resolution approving appropriations for the Citizens' Option for Public Safety (COPS) Fund for fiscal year 2009-10, with the exception that \$10,000 of the COPS money be allocated to the Westwind Barn budget to be spent on the Sheriff's Substation. Resolution No. 54-09

Finance Director Pegueros suggested that the \$10,000 be taken from Site improvements and Hazard abatement.

UNFINISHED BUSINESS

10. Town Goal

Discussion of Potential Annexation of Hidden Villa

Mayor Warshawsky reported that he and Planning Director Pedro met with the Hidden Villa Board earlier in the day to discuss the benefits of the annexation and focused on County lands, sphere of influence, Hidden Villa's values and principles, open space, and closer ties. The Hidden Villa Board will meet and get back to the Town.

Planning Director Debbie Pedro anticipated the annexation process would take eight to twelve months.

11. Consideration of Award of Community Service Agency Grant Funding for Fiscal Year 2010 (Staff: N. Pegueros)

Finance Director Nick Pegueros reported that the total was less than the budget.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Larsen and passed unanimously to approve the Grant Funds for Fiscal Year 2010 to community service agencies as identified in the staff report.

12. Verbal Update on the Westwind Barn Seismic Retrofit and Repair Project (Staff: R.Chui)

Due to a potential conflict of interest, Mayor Warshawsky recused himself from discussion of the item and stepped down from the dais.

City Engineer Richard Chiu provided an update on the Westwind Barn repair project and proceeded with a PowerPoint presentation that showed the work being done and the construction cost budget.

Councilmember Mordo questioned whether interior walls and doors to the stalls were being replaced. City Engineer Chiu pointed out that the interior work was mainly the floors. The biggest unknown of the project is the pier drilling operation.

City Manager Cahill supported the decision to reserve the contingency fund for project contingencies. He was not advocating for any large expenditures for new systems but noted two critical items coming up that related to LEED certification, carbon footprint reduction and an increased use of recycled materials. The two items were the cool roof (\$8,500 upgrade) and concrete mix (taking the recycled content from 20% to as high as 50%). Council was asked to approve the cool roof.

Discussion by Council. The number one objective is to make sure the barn is safe. The roof would need to be in place prior to the rainy season. Council concurred that the concrete mix was not critical.

MOTION SECONDED AND CARRIED: Moved by Summit, seconded by Mordo and passed by a 4-0-1 vote with Warshawsky recused to approve \$8,500 from the Contingency Fund for the cool roof.

13. Award of Contract for the Eastbrook Sewer Extension Project; Authorization for the City Manager to Enter Into Loan or Repayment Agreements with the Affected Property Owners (Staff: R. Chiu)

City Engineer Chiu summarized the staff report noting that the project came before the Council in the past and involved potential funding from eight property owners. The project was put out to bid and 12 bids were received. The low bid received was from ESP, Inc., in the amount of \$174,050. Staff recommended that the contract be awarded to ESP, Inc. and that the City Manager be authorized to enter into loan and repayment agreements with the eight affected property owners on behalf of the Town.

PUBLIC COMMENT

Allan Epstein, Ravensbury, commented that residents were responsible for paying for sewer mains and he was unaware of any situation where a loan agreement was established to pay for a sewer main for a resident in the Town. He questioned the 14 year loan at a 3% rate. The loan should be from the General Fund rather than the Sewer Fund.

CLOSED PUBLIC COMMENT

City Attorney Steve Mattas clarified that the actual mechanism of repayment would be a lien, agreed to by the property owners, and payments would come through their property tax bills. The majority of property owners concurred with that payment approach.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Larsen and passed unanimously to adopt Resolution No. 55-09 Awarding a Contract for the Construction of Eastbrook Avenue Sanitary Sewer Diversion Project and Authorizing the

City Manager to Enter into Loan or Repayment Agreements with the Affected Property Owners

14. Consideration of Energy Efficiency and Conservation Block Grant (EECBG) Funding for Acterra's High Energy home Assessment Program (Staff: C. Cahill)

City Manager Cahill introduced the report and explained that the Town is entitled to Energy Efficiency and Conservation Block Grant (EECBG) funds, which is federal money disbursed by the state to local governments. Government agencies have the option of transferring the money to another agency.

Steve Schmidt, Bird Lane, spoke about the Acterra High Energy Home Assessment Program which was recommended by the Town's Energy Initiative Committee. The towns of Woodside, Atherton, and Monte Sereno have approved the Program. The Program can be used for energy efficiency, teaching residents about the energy use in their homes, educating residents about water use and greenhouse gas emissions inventory.

The Council commended Mr. Schmidt for the work he has done on the program.

Mr. Schmidt explained that he was an independent contractor with Acterra, and Acterra will be the program manager that hires people to do the audits.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Kerr and passed unanimously to approve the resolution authorizing Acterra to apply for the EECBG allocation. Resolution No. 56-09

NEW BUSINESS

15. Consideration of Sewer Connection Fee Reimbursement Policy (Staff: N. Pegueros)
Agenda Item #15 was considered in conjunction with Agenda item #16

PLANNING COMMISSION REPORT

Planning Director Debbie Pedro advised the City Council that the Commission had not met since the last City Council Meeting.

REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

16. Report and Presentation by the Ad Hoc Infrastructure Committee
Agenda Item #15 was considered in conjunction with Agenda Item #16.

Mayor Warshawsky reported being advised by the City Attorney that there were several potential issues of conflicts of interest with Councilmembers and the City Attorney would provide direction to the Council on consideration of the policy and presentation by the committee.

City Attorney Steve Mattas recommended that the Council hear the presentation, ask questions, then discuss and provide direction on Agenda Item 15. However, Council

should refrain from asking questions that were relevant to their potential conflicts of interest. Councilmember Larsen's conflict involved the possibility of an assessment district being included in the policy if recommended by a member of the public and Councilmember Mordo's property was located close to the Malavalli line which is included in a reimbursement district in the process of being formed. Both Councilmembers might fit within a Public General Exception; however a formal ruling would be required from the FPPC and an opinion could take approximately 6-8 weeks. The Councilmembers elected to abstain from the discussions where they may have a potential conflict but reserved their rights to ask for an FPPC opinion.

Allan Epstein, member of the Ad Hoc Infrastructure Committee, reviewed the Executive Summary and recommendations that included: (1) incentive to help the formation of Reimbursement Districts; (2) method for calculating sewer connect fees be reviewed; (3) street cut fee be reviewed; (4) education forums be held to help residents understand how to organize, build and finance sewers; and (5) the Ad Hoc Committee be retired and duties transferred to the FIC. The Ad Hoc Committee's recommendation is to put in place a reimbursement of 100% of the Connect Fee to residents electing to participate in a reimbursement district within the first six months of formation. The subsidy would be limited to \$100,000 per year and available on a first come first served basis. The recommendation to update the sewer connect fee would require the hiring of a consultant to assist in providing additional historical timing and cost information. The recommendation for Street Cut Fee would be to set the fee equal the Town's true out of pocket costs associated with repairing the road; a consultant should be hired to assist in developing a fee reference table. An alternate Street Cut Fee recommendation was to waive the Street Cut Fee on sewer main projects.

Finance Director Nick Pegueros described the similarity between the first committee recommendation and Agenda Item 15 (draft "Sewer Improvement Reimbursement" policy) on the agenda. Agenda item 15 recommended a 50% reimbursement of the cost of the Sewer Connection Fee as an incentive for owners who legally connect to the new sewer main within 6 months from the date that the Sewer Reimbursement District was approved by the Council. The incentive was subject to limitations and conditions outlined in the draft policy. The Ad Hoc committee's recommendation was for a 100% reimbursement of the fee.

PUBLIC COMMENT

Barry Young, Chardonnay Lane, applauded the Ad Hoc Committee for its work and favored all the recommendations with the exception of the first recommendation. Reimbursement District participants would be given preference; but for the connection fee subsidy but this was not extended to in assessment districts.

CLOSED PUBLIC COMMENT

City Attorney Mattas clarified the request of Mr. Young to have the policy before the Council (Agenda Item #15) expanded to include assessment districts beyond only reimbursement districts; if the Council were to add assessment districts; that would create a potential conflict for Councilmember Larsen.

Councilmembers Larsen and Mordo were recused and stepped away from the dais.

Discussion by Council ensued about including reimbursements districts and assessment districts.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Summit and approved 3-0, with Mordo and Larsen recused, to limit the policy to be adopted to reimbursement districts only.

Councilmember Kerr questioned where the \$100,000 was coming from. Finance Director Nick Pegueros explained that Agenda Item 15 and the Ad Hoc Committee's recommendation was that the subsidy be funded in the next fiscal year and considered as part of the next fiscal year's budget. The Council's action at the current meeting would not commit the Town to a specific dollar amount.

Mayor Warshawsky summarized that if the Council favored the recommendation at the current meeting and provided direction to staff, Council would discuss the actual dollars and approval at the next budget cycle.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Summit and carried unanimously to approve the reimbursement of 100% of the Connect Fee to residents electing to participate in a reimbursement district within the first six months of formation and the budget amount of \$100,000 during the next year's budget cycle.

Discussion by Council about the cost of a consultant to review the sewer connect fee. The estimate was \$10,000 to \$20,000 which would be paid out of the Sewer Fund. City Manger Cahill explained that a consultant's study would add to the legitimacy of the costs and provide the Town with a defensible position for the fee. Councilmember Mordo suggested that it would be advantageous to have a base study to confirm the fee. Finance Director Pegueros noted that timeline suggested in the committee's report was not adequate.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Summit and passed by the following voice vote to approve the Committee's recommendation to hire a consultant to prepare a Sewer Connection Fee study. (Ayes: Warshawsky, Mordo, Larsen, Summit; No: Kerr)

Councilmember Mordo questioned the consideration of the Town advancing money for the street cut fee and have that as part of the reimbursement district. Finance Director Pegueros referred to his staff report, dated September 24, 2009, which mentioned that Shashi Corporation made a similar proposal, and the City Council took no action.

City Attorney Mattas suggested that the Council direct staff to look at the question, noting potential issues that might arise with attaching it to a reimbursement district. Staff would report back to the Council with the results of the fee.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Summit and passed by the following voice vote to approve the Committee's recommendation to hire a consultant to prepare a Street Cut Fee study. (Ayes: Warshawsky, Mordo, Larsen, Summit No: Kerr)

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Summit and passed unanimously to proceed with the educational/informational sewer forums.

Council thanked the members of the Ad Hoc Infrastructure Committee for their presentation and efforts on the sewer investigation.

17. Request by Standing Open Space Committee to Revisit the Town's Fence Ordinance (Roger Spreen, Committee Chair)

Roger Spreen, Open Space Committee Chair, summarized the Open Space Committee's recommendation to add the following wording to the current Fencing Regulation Ordinance: "Fencing and gates shall be constructed without the use of points, spikes or other materials hazardous to wildlife, people or pets. 'Points and spikes' shall mean any end of a vertical bar that is capable of causing, or is likely to cause, injury to people, pets, or wildlife." Council was urged to adopt the wording.

Concurrence of Council was to approve the wording. Staff will bring it back as a Zoning Code Amendment to the Planning Commission and Council.

COUNCILMEMBERS REPORTS:

Councilmember Kerr reported doing extensive research on potential grants for water conservation; one relatively modest grant was identified that might help pay for the potential water saving project next year. Staff will apply from the money from the Santa Clara Water District.

Councilmember Larsen reported attending the League of Cities breakfast the prior week.

Mayor Warshawsky reported leading a YMCA walk on the Taaffe path. The walk took approximately one-hour walk from Westwind Barn. He and City Manager Cahill attended a Silicon Valley Leadership Group on Tuesday.

STAFF REPORTS

City Manager
City Attorney
City Clerk

City Clerk Karen Jost reminded Council that dinner plans were underway for Wednesday, 5:30 p.m. to meet with the Town's Police and Fire personnel.

No additional staff reports were given.

COUNCIL INITIATED ITEMS

No Items Scheduled.

ADJOURNMENT

There being no further business, the meeting was adjourned by consensus of the City Council at 10:45 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the September 24, 2009 regular City Council meeting were approved as presented at the November 12, 2009 regular City Council meeting.